

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER SHEFMAN,

Plaintiff,

v.

Case No. 2:18-cv-11477

District Judge David M. Lawson

Magistrate Judge Anthony P. Patti

AMERICAN AIRLINES, INC.,

Defendant.

**ORDER GRANTING DEFENDANT'S MOTION TO COMPEL (DE 40),
HOLDING IN ABEYANCE PLAINTIFF'S MOTION TO EXTEND (DE 39),
and PROVIDING NOTICE OF TELEPHONIC STATUS CONFERENCE**

The operative pleading in this case is Plaintiff's September 7, 2018 amended complaint, which is based on injuries Plaintiff allegedly suffered during a May 24, 2016 flight from Detroit to Phoenix. (DE 23 ¶¶ 8-24.) His causes of action include negligence and intentional infliction of emotional distress. (DE 23 ¶¶ 25-41.)

Discovery in this case is due by March 29, 2019. (DE 21.) Currently before the Court are two motions: (1) Defendant's December 27, 2018 motion to compel Plaintiff's responses to Defendant's first set of interrogatories and requests for production of documents (DE 40), regarding which Plaintiff has filed a January 29, 2019 response and opposition (DE 50); and, (2) Plaintiff's January 23, 2019 motion to extend scheduling dates due to Plaintiff's medical condition and

proceeding *in pro per* (DE 49), regarding which Defendant has filed an opposition (DE 52).

Judge Lawson has referred this case to me for screening and general case management. A hearing was held on February 7, 2019, at which Plaintiff appeared on his own behalf and attorney Justin M. Schmidt appeared on behalf of the Defendant. Following oral argument, the Court issued its ruling from the bench.

For the reasons stated on the record, all of which are incorporated herein by reference, Defendant's motion to compel (DE 40) is **GRANTED**. No later than **Thursday, February 21, 2019**, Plaintiff shall serve full and complete written answers and responses to Defendant's first set of interrogatories and document requests to Plaintiff, without objection, *any objections to these discovery requests having already been waived*. The answers to Interrogatory Nos. 1-13 must comply with the requirements of Fed. R. Civ. P. 33(b)(3) ("Answering Each Interrogatory.") and must be signed under oath. Fed. R. Civ. P. 33(b)(5) ("Signature"). The responses to Request for Production of Documents Nos. 1-12 must comply with Fed. R. Civ. P. 34(b)(2)(B) ("Responding to Each Item.") and the written responses must indicate whether the item sought: **(a)** has already been produced; **(b)** is being concurrently produced; or, **(c)** is not within Plaintiff's custody or control. During the hearing, Plaintiff signed and submitted the requested medical and income tax authorization forms; however, if additional

medical sources are identified, Plaintiff is expected to sign the related, additional releases without the Court's intervention. Also, Plaintiff is reminded of the continuing duty to supplement discovery answers. Finally, while the Court concludes that, *at this time*, Plaintiff's attorney's withdrawal and Plaintiff's documented medication condition constitute circumstances that "make an award of expenses unjust[,]” Fed. R. Civ. P. 37(a)(5)(A)(iii), Plaintiff's attention is drawn to the entirety of Fed. R. Civ. P. 37, particularly the consequences set forth in Rule 37(b) ("Failure to Comply with a Court Order.").

Plaintiff's motion to extend (DE 49) is **HELD IN ABEYANCE** but will be addressed following the forthcoming telephonic on-the-record status conference, which is hereby noticed for **Tuesday, February 26, 2019 at 1:00 p.m.** Finally, while the parties have been relieved of the Undersigned's face-to-face meeting motion practice requirement, the parties are required to comply with E.D. Mich. LR 7.1(a) ("Seeking Concurrence in Motions and Requests.") in writing, should they engage in future motion practice.

IT IS SO ORDERED.

Dated: January 18, 2019

s/ *Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on February 7, 2019, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti